

**REPORT AND PROPOSED AMENDMENTS TO THE  
MINNESOTA RULES OF JUVENILE DELINQUENCY PROCEDURE  
RE: *BLAKELY* PROCEDURE**

**MINNESOTA SUPREME COURT  
JUVENILE DELINQUENCY RULES COMMITTEE**

**CX-01-926**

**March 17, 2006**

Honorable Kathryn N. Smith, Chair

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Hon. G. Barry Anderson  
Supreme Court Liaison

Kelly Lyn Mitchell  
Staff Attorney

## **REPORT TO THE SUPREME COURT FROM THE JUVENILE DELINQUENCY RULES COMMITTEE**

On March 8, 2006, the Advisory Committee on Rules of Criminal Procedure submitted to the Court a report recommending amendments to the Rules of Criminal Procedure to establish procedures for seeking an aggravated sentence in compliance with *Blakely v. Washington*, 542 U.S. 296, 124 S.Ct. 2531 (2004), and subsequent case law. This committee analyzed the proposed procedures to determine whether they would affect certification and extended jurisdiction juvenile (EJJ) procedure. The committee determined that there is no impact on certification procedure because when a child is certified as an adult, jurisdiction of the juvenile court terminates, and new proceedings commence in adult court upon the filing of an adult criminal complaint. The case is then governed by the Rules of Criminal Procedure. There is, however, an impact on EJJ procedure because the outcome of an EJJ case is the pronouncement of a juvenile disposition *and* an adult stayed sentence. The adult stayed sentence could potentially be an *aggravated* sentence. Therefore, the Juvenile Delinquency Rules of Procedure must either parallel or tie into the adult procedure for seeking an aggravated sentence. The amendments proposed here are intended to accomplish that.

Rule 19.09, subd. 1 already provides that a child who is subject to an EJJ prosecution is entitled to a trial by jury pursuant to Minnesota Rules of Criminal Procedure 26. The committee's job was to determine whether the procedures for an aggravated sentence proposed in the adult context required modification in the juvenile context. The only provision that appeared to require such modification was the notice provision.

Because an EJJ trial occurs very quickly after the case is designated as an EJJ prosecution, members felt the Juvenile Delinquency Rules should not key the timing of the notice from the Omnibus Hearing as proposed in the adult rule. The committee therefore

recommends amending Rule 19.09 to require that such notice be served and filed within seven days after designation of the proceeding as an EJJ prosecution. The committee recognized that there may be times when notice cannot be provided within that timeframe. Therefore, the proposed rule also allows for an exception to the timing requirement consistent with the standard that already exists in Minn. R. Juv. Del. P. 6.04 for amending the petition and Minn. R. Crim. P. 17.05 for amending the adult criminal complaint or indictment. The standard is that the substantial rights of the child, or in adult court the defendant, are not prejudiced. The committee recommends this standard for both the juvenile and adult rules because it is already well developed in case law and is meaningful to the participants in both the juvenile and adult criminal justice systems. The notice provision offered here therefore differs somewhat from the notice provisions recommended by the majority and minority positions of the Advisory Committee on Rules of Criminal Procedure. Regardless of which notice provision the Court chooses to adopt, the committee requests that the Court adopt the same provision, except with regard to the timing of the notice, for both the Juvenile Delinquency and Criminal Rules of Procedure.

Proposed Rule 19.09, subd. 2 also provides that, except as modified by these rules, other procedures relating to an aggravated sentence, (e.g., discovery, admission to the facts in support of an aggravated sentence, and waiver of the right to a jury trial on the facts in support of an aggravated sentence), are governed by the Rules of Criminal Procedure.

Respectfully Submitted,

JUVENILE DELINQUENCY  
RULES COMMITTEE

**PROPOSED AMENDMENTS TO  
THE RULES OF JUVENILE DELINQUENCY PROCEDURE**

**1. Amend Rule 19.07, subd. 2 as follows:**

**Subd. 2. Decision, Timing, and Content of Order Following Contested Hearing.** Within fifteen (15) days of the contested hearing, the court shall enter an order with written findings of fact and conclusions of law as provided in this subdivision.

(A) If the court orders that the proceeding be an extended jurisdiction juvenile prosecution, the order shall state:

(1) that extended jurisdiction juvenile prosecution shall occur for the offense(s) alleged in the delinquency petition filed pursuant to Rule 6.03;

(2) a finding of probable cause in accordance with Rule 19.04, subdivision 2(C), unless the accusation was presented by means of an indictment; and

(3) findings of fact as to:

(a) the child's date of birth;

(b) the date of the alleged offense(s); and

(c) why the court found that designating the proceeding as an extended jurisdiction juvenile prosecution serves public safety pursuant to Rule 19.05.

(B) If the court does not order that the proceeding be an extended jurisdiction juvenile prosecution, the court order shall state:

(1) that the case shall proceed as a delinquency proceeding in juvenile court;

(2) a finding of probable cause in accordance with Rule 19.04, subdivision 2(C), unless the accusation was presented by means of an indictment; and

(3) findings of fact as to:

(a) the child's date of birth;

(b) the date of the alleged offense(s);

(c) why the court found that retaining the proceeding in juvenile court serves public safety pursuant to Rule 19.05.

~~If the court orders that the matter proceed as an extended jurisdiction juvenile prosecution, further proceedings shall be held pursuant to the Minnesota Rules of Criminal Procedure, except as modified by these rules.~~ If the court orders that the matter is not an extended jurisdiction juvenile prosecution, further proceedings shall be held pursuant to Rule 7.

**2. Amend Rule 19.09 as follows:**

**Rule 19.09 Extended Jurisdiction Juvenile Prosecution and Procedure for Seeking an Aggravated Adult Criminal Sentence**

**Subdivision 1. General Procedure and Timing.** Minnesota Statutes, chapters 260 and 260B and these Rules apply to extended jurisdiction juvenile prosecutions. However, every child who is the subject of an extended jurisdiction juvenile prosecution is entitled to trial by jury on the underlying offense pursuant to Minnesota Rules of Criminal Procedure 26. The court shall schedule a hearing for the child to enter a plea to the charges. If the child pleads not guilty, the court shall schedule an omnibus hearing

prior to the trial and shall also schedule the trial. The trial shall be scheduled pursuant to Rule 13.02, except:

(A) The time shall run from the date of the filing of the extended jurisdiction juvenile order.

(B) In cases where the child is in detention, if the extended jurisdiction juvenile hearing is commenced within thirty (30) days of the prosecution motion for EJJ designation, the trial shall be scheduled within sixty (60) days of the court's order designating the child an extended jurisdiction juvenile, unless good cause is shown why the trial should not be held within that time. If the hearing on the motion to designate the child as an extended jurisdiction juvenile is commenced more than thirty (30) days from the filing of the motion, the trial shall be commenced within thirty (30) days of entry of the court's order designating the child an extended jurisdiction juvenile.

**Subd. 2. Notice and Procedure for Seeking an Aggravated Adult Criminal Sentence.**

(A) *Notice.* Within 7 days after filing of a designation of the proceeding as an extended jurisdiction juvenile prosecution by the court or prosecutor, the prosecutor shall serve and file on the child's attorney written notice of intent to seek an aggravated adult criminal sentence as defined in Minnesota Rules of Criminal Procedure 1.04(d). The notice shall include the grounds or statutes relied upon and a summary statement of the factual basis supporting the aggravated adult criminal sentence. The court may allow a notice served and filed more than 7 days after filing of a designation of the proceeding as an extended jurisdiction juvenile prosecution if the substantial rights of the child are not prejudiced.

(B) *Procedure.* If the prosecutor has filed and served notice under this rule of intent to seek an aggravated adult criminal sentence, a hearing shall be held to determine whether the law and proffered evidence support an aggravated adult criminal sentence and, if so, whether the issues will be presented to the jury in a unitary or bifurcated trial. The hearing shall be held prior to trial.

In deciding whether to bifurcate the trial, the court shall consider whether the evidence in support of an aggravated adult criminal sentence is otherwise admissible in the guilt phase of the trial and whether unfair prejudice would result to the child in a unitary trial. A bifurcated trial shall be ordered where evidence in support of an aggravated adult criminal sentence includes evidence that is inadmissible during the guilt phase of the trial or would result in unfair prejudice to the child. If the court orders a unitary trial the court may still order separate final arguments on the issues of guilt and the aggravated adult criminal sentence.

Except as modified by these rules, procedures relating to an aggravated adult criminal sentence are governed by the Minnesota Rules of Criminal Procedure.